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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|----------------------|---------------------|------------------|
| 10/828,696 | 04/21/2004 | George Giolas | 34525-96509 | 5391 |
| 23644 | 7590 | 10/06/2004 | EXAMINER | |
| BARNES & THORNBURG | | | | LE, HUYEN D |
| P.O. BOX 2786 | | | | ART UNIT |
| CHICAGO, IL 60690-2786 | | | | PAPER NUMBER |
| | | | | 3751 |

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/828,696 | GIOLAS, GEORGE |
| | Examiner | Art Unit |
| | Huyen Le | 3751 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 April 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,4-6,9 and 10 is/are rejected.
 7) Claim(s) 2,3,7 and 8 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 4/21/04 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mann (3,262,132).

The Mann reference discloses toilet comprising a bowl 10 having a collection basin 12; a trap 40 in communication with the collection basin 12 for maintaining a predetermined water level in the collection basin and providing a primary outlet 44 for egress of waste from the collection basin into a drainage system 46; an overflow drain arrangement 50 proximate the collection basin 12, the overflow drain arrangement including one collection cavity 50 extending along one side of said collection basin and substantially coextensive with one side of the collection basin 12; an overflow trap 76 extending from the collection cavity 50 providing an overflow outlet 78 into the drainage system separate from the primary outlet 42; and a plurality of overflow apertures (Fig. 4) leading from the collection basin 12 to the collection cavity 50.

Regarding claims 5 and 6, the bowl includes a water inlet rim having a series of spaced inlet holes, the overflow apertures being located between water outflow leading from the inlet holes.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (3,262,132) in view of Pasman (1,998,145).

The Mann reference discloses a toilet as described above.

Although the Mann reference does not disclose that the overflow opening 64 include a protective strainer, having strainers mounted overflows is known in the art. Attention is further directed to Pasman reference which shows a strainer 76 mounted on an overflow of a tub for screening out the debris.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a strainer on the overflow opening of the Mann toilet in view of the teaching of the Pasman reference for screening out the solid content to prevent the openings from blockage.

Allowable Subject Matter

5. Claims 2, 3, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Barron, Tucker, Young and Kimble references teach toilet bowls having overflows.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Huyen Le

Huyen Le
Examiner
Art Unit 3751

HL
October 1, 2004